



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Frank R. Murray
County Attorney
Carson County
Panhandle, Texas

Dear Sir:

Opinion No. O-5200

Re: Construction of Article 286,
Penal Code, with reference to the
operation of dance halls, otherwise
lawful, on Sunday where charge is
made for admission.

Your request for our opinion on the hereinabove captioned matter has been received by this department. We quote from your letter as follows:

"Will you kindly advise me as to whether or not a dance hall where admission is charged can run lawfully on Sunday.

"The second sentence of the Article referred to in the caption hereof reads as follows: 'The term place of public amusement, shall be construed to mean circuses, theaters, variety theaters and such other amusements as are exhibited and for which an admission fee is charged; and shall also include dances at disorderly houses, low dives and places of like character, with or without fees of admission.'

"From the wording above a doubt has arisen in my mind as to whether it is unlawful for a dance, otherwise lawful, to run past twelve o'clock on Saturday night. I have been unable to find a court decision covering on a dance where admission fees are charged and operating on Sunday.

"Article 286, Penal Code, reads as follows:

"Any merchant, grocer, or dealer in wares or merchandise, or trader in any business whatsoever, or the proprietor of any place of public amusement, or the agent or employe of any such person, who shall sell, barter, or permit his place of business or place of public amusement to be open for the purpose of traffic or public

amusement on Sunday, shall be fined not less than twenty nor more than fifty dollars. The term place of public amusement, shall be construed to mean circuses, theaters, variety theaters and such other amusements as are exhibited and for which an admission fee is charged; and shall also include dances at disorderly houses, low dives and places of like character, with or without fees for admission."

No public amusement, though exhibited on Sunday and a fee charged for admission thereto, is prohibited by the statute forbidding amusements on Sunday, except those named and such as are the same kind and class as those specified. 39 Texas Jurisprudence 867.

We infer from your letter that the dance halls about which you inquire are neither "disorderly houses", "low dives", nor "places of like character"; consequently, they do not come within the terms of the above quoted article.

It is, therefore, our opinion that dance halls, where admission fees are charged, other than the types just enumerated, can lawfully operate on Sunday.

Yours very truly

ATTORNEY GENERAL OF TEXAS

s/ J. C. Davis, Jr.

By J. C. Davis, Jr.
Assistant

JCD:mp

APPROVED MAY 28, 1943
s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee
By BWB, Chairman

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